

## CONSUMER LEASING

### OVERVIEW

Federal Reserve Board (FRB) Regulation M requires meaningful disclosures of the terms of leases of personal property for personal, family, or household purposes. It limits balloon payments in consumer leasing, enables comparison of lease terms with credit terms where applicable, and assures meaningful and accurate disclosures of leased terms in advertisements.

### Examination Objective(s)

The objectives for the examination are to determine:

- Whether the financial institution is a lessor and therefore, subject to Regulation M
- Whether the financial institution's policies and practices are in compliance with Regulation M

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### DEFINITION(S)

The gross capitalized cost less the capitalized cost reduction, and is the amount used by the lessor in calculating the base periodic payment.

### Adjusted Capitalized Cost

### Capitalized Cost Reduction

The total amount of any rebate, cash payment, net trade-in allowance, and noncash credit that reduces the gross capitalized cost

**DEFINITION(S)**  
**(cont'd)**

A consumer lease is:

- Entered into by a natural person
- For the use of personal property primarily for personal, family, or household purposes
- For a period of time exceeding four months
- For a total contractual obligation not exceeding \$25,000

**Consumer Lease**

The following are **not** consumer leases:

- Those that meet the definition of a credit sale in Section 226.2(a) of Regulation Z
- Those where the leased property is used for agricultural, business, or commercial purposes
- Those where the lease is made to an organization
- Exempted transactions under 213.2(e)(3)

**Gross Capitalized  
Cost**

The amount agreed upon by the lessor and the lessee as the value of the leased property and any items that are capitalized or amortized during the lease term, including but not limited to taxes, insurance, service agreements, and any outstanding balance from a prior loan or lease

**Lessee**

A natural person who enters into or is offered a consumer lease

**Lessor**

A person who regularly leases, offers to lease, or arranges for the lease of personal property, under a consumer lease, more than five times in the preceding or current calendar year

**DEFINITION(S)**  
**(cont'd)**

Realized Value is:

- The price received by the lessor for the leased property at disposition
- The highest offer for disposition of the leased property; or
- The fair market value of the leased property at the end of the lease term

**Realized Value**

**Residual Value**

The value of the leased property at the end of the lease term, as estimated or assigned at consummation by the lessor, used in calculating the base periodic payment.

**Triggering Terms**

The following are "Triggering Terms" with respect to advertisements for consumer leases:

- The amount of any payment
- A statement of any capitalized cost reduction or other payment required prior to or at consummation, or by delivery, if delivery occurs after consummation

**EXAMINATION  
PROCEDURES**

Evaluate for Compliance with Regulation M	
1.	Review the Compliance Information Request (CIR) to determine if the financial institution has made or purchased consumer leases since the last examination.  <i>NOTE: This section of the manual has been updated to reflect the revisions made to Regulation M on April 1, 1997 {refer to FIL-36-97}. Thus, when citing violations, be aware that compliance with these revisions is optional until October 1, 1997.</i>
2.	Review forms used in granting consumer leases.
3.	Determine that disclosures were furnished to customers before consummation of the lease. 213.3(a)(3)

**EXAMINATION  
PROCEDURES  
(cont'd)**

**Disclosures**

4. Determine that lease disclosures include, as applicable:
  - A description of the property (213.4(a))
  - The amount of any payment to be paid prior to or at consummation, or by delivery, if delivery occurs after consummation (213.4(b))
  - Payment schedule and total amount of periodic payments (213.4(c))
  - Charges not included in the periodic payments, such as any liability imposed at the end of the lease term (213.4(d))
  - Total of payments (213.4(e))
  - The method of payment calculation including the following, as applicable: Gross capitalized cost, Capital cost reduction, Adjusted capitalized cost, Residual Value, Depreciation and any amortized amounts, Rent charge, Total of base periodic payments, Lease term, Base periodic payment, Itemization of other charges, and total periodic payments (213.4(f))
  - The conditions and disclosure of early termination charges and the required notice thereof (213.4(g))
  - Maintenance responsibilities (213.4(h))
  - Availability and conditions of any purchase options (213.4(i))
  - A statement referencing nonsegregated disclosures (213.4(j))
  - Lessee's liability, if any, for the difference between the residual and realized value of the leased property (213.4(k))
  - A statement that the lessee may obtain, at lessee's expense, a professional appraisal by an independent third party agreed to by the lessee and the lessor of the value that could be realized at the sale of the leased property. This should be done when the lessee's liability at early termination or at the end of the lease term is based on the realized value of the leased property (213.4(l))
  - The lessee's liability at the end of the lease term based on residual value (213.4(m))
  - The total dollar amount of all fees and taxes required to be paid by the lessee (213.4(n))

**EXAMINATION  
PROCEDURES  
(cont'd)**

- A brief description of any insurance required in connection with the lease, including that to be obtained through the lessor, or that to be obtained through a third party (213.4(o))
- A statement identifying all express guarantees or warranties from the manufacturer or lessor (213.4(p))
- A description of the method of determining the amount of any penalties or the amount of any penalties and other charges which the lessee may incur for delinquency (213.4(q))
- A description of any security interest, in the leased property, which is held or maintained by the lessor (213.4(r))
- A required language statement concerning limitations on rate information if a lessor provides a percentage rate in an advertisement or in documents evidencing the lease transaction (213.4(s))
- Non-motor vehicle open-end leases remain subject to section 182(10) of the act regarding end of term liability (213.4(t))

*Refer to Appendix A of Regulation M for model disclosure forms.*

**Renegotiations, Extensions, and Assumptions**

Definitions:

- A *renegotiation* occurs when a consumer lease is satisfied and replaced by a new lease. A renegotiation requires new disclosures, except as described below. (213.5(a))
- An *extension* is a continuation, agreed to by the lessor and the lessee, of an existing consumer lease beyond the originally scheduled end of the lease terms, except when the continuation is the result of the renegotiation. An extension that exceeds six months requires new disclosures, except as described below. (213.5(b))
- An *assumption* occurs when a consumer lease is assumed by another person, whether or not the lessor charges an assumption fee.

*NOTE: New disclosures are not required when a consumer lease is assumed by another person, whether or not the lessor charges an assumption fee.*

**EXAMINATION  
PROCEDURES  
(cont'd)**

5. If transactions qualify as renegotiations or extensions, determine that disclosures were furnished to consumers, as applicable. (213.5)

New disclosures are not required for the following, even if they meet the definition of a renegotiation or an extension:

- A reduction in the lease charge;
- The deferment of one or more payments, whether or not a fee is charged;
- The extension of a lease for not more than six months on a month-to-month basis or otherwise;
- A substitution of leased property with property that has a substantially equivalent or greater economic value, provided no other lease terms are changed;
- The addition, deletion, or substitution of leased property in a multiple-item lease, provided the average periodic payment does not change by more than 25 percent; or
- An agreement resulting from a court proceeding.

**Triggering Terms (Advertising)**

6. Determine that if triggering terms are utilized in advertisements, the following are disclosed:
- That the transaction is a lease (213.7(d)(2)(i))
  - The total amount due prior to or at consummation or by delivery, if delivery occurs after consummation (213.7(d)(2)(ii))
  - The number, amounts, due dates or periods of scheduled payments under the lease (213.7(d)(2)(iii))
  - A statement of whether or not a security deposit is required (213.7(d)(2)(iv))
  - A statement that an extra charge may be imposed at the end of the lease term where the lessee's liability (if any) is based on the difference between the residual value of the leased property and its realized value at the end of the lease term (213.7(d)(2)(v))

**WORKPAPER  
STANDARDS**

Appropriate workpapers or standardized workpapers must document all findings when reviewing compliance with Regulation M. Refer to the Standardized Workpapers Appendix in this manual.

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**FDIC LAW,  
REGULATIONS,  
& RELATED  
ACTS**

**Applicable Rules**

Consumer Credit Protection Act, Chapter 5 (Consumer Leases), Volume 2, Page 6590.04

Federal Reserve Board's Consumer Leasing Official Staff Commentary to Regulation M, Volume 2, Page 6719

Regulation M (Part 213), Volume 2, Page 6685

**Advisory  
Opinions**

None

**Statements of  
Policy**

None

**DCA  
MEMORANDA**

None

**FINANCIAL  
INSTITUTION  
LETTERS (FIL)**

Amendments to the Consumer Leasing Act, Letter #36-97, dated 4/17/97